

Charges for the wait time associated with making a delivery of ready-mix must be included in the sales tax base for the sale. See 86 Ill. Adm. Code 130.410.

July 16, 2002

Dear Xxxxx:

This letter is being sent to you for the purpose of rescinding part of a letter ruling the Department issued to AAA on July 24, 1990, (copy enclosed). As indicated in Section 1200.110(d) of the Department's regulations (see enclosed copy), when a letter ruling is revoked, a taxpayer will incur no liability for any tax, penalty or interest as a result of reliance upon the letter ruling (or any part thereof, in the case of partial revocation, as in this case) up to the date of the issuance of the revocation of the ruling.

The letter ruling was issued in response to questions you asked in a letter dated May 24, 1990. Specifically, you asked whether sales tax was applicable to overtime and extra-time charges for deliveries of ready-mix if they are stated separately. The Department's response stated that "if by overtime and extra-time charges you mean those charges made to a purchaser of ready-mix because the driver is required to wait on the site of the delivery, you are correct that these charges would not be taxable so long as they are separately stated."

This conclusion is incorrect. Charges for the wait time associated with a delivery of ready-mix must be included in the sales tax base for the sale. For your information we have enclosed a copy of the Department's regulation at 86 Ill. Adm. Code 130.410, which discusses how costs of doing being are treated for sales tax purposes. This regulation provides that "[i]n computing Retailers' Occupation Tax liability, no deductions shall be made by a taxpayer from gross receipts or selling prices on account of the cost of property sold, the cost of materials used, labor or service costs, idle time charges, incoming freight or transportation costs, overhead costs, processing charges, clerk hire or salesmen's commissions, interest paid by the seller, or any other expenses whatsoever. Costs of doing business are an element of the retailer's gross receipts subject to tax even if separately stated on the bill to the customer." In the case of a delivery of ready-mix, the time spent waiting to deliver is necessarily also time spent preparing the ready-mix. This additional preparation time is a cost of doing business and therefore, the charges for this service must be included in the sales tax base.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Martha P. Mote
Associate Counsel

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